IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

WP(C).No. 23962 of 2007(C)

PETITIONER:

THARIAN PAUL, S/O PAUL, AGED 57,
PARACKAL HOUSE, ELAMKULAM VILLAGE, KADAVANTHRA,
REPRESENTED BY HIS POWER OF ATTORNEY HOLDER
SRI.THOMAS JOHN KITHU, AGED 50, KITHU HOUSE,
KANDANADU P.O., THIRUVANKULAM (VIA),
ERNAKULAM DISTRICT, PIN- 682 305.

BY ADV. SRI.B.N.SHIVASANKAR
SRI.T.R.S.KUMAR

RESPONDENTS:
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1. THE DISTRICT COLLECTOR, ERNAKULAM,
CIVIL STATION, KAKKANAD.

2. THE TAHASILDAR (LA),
CORPORATION OF COCHI,
VYTILA.

3. CORPORATION OF COCHIN,
PARK AVENUE ROAD, KOCHI- 682011,
REPRESENTED BY ITS SECRETARY.

R1 BY G.P. SHRI BASANT BALAJI
R2 & R3 BY ADV. SRI.C.M.SURESH BABU,SC,COCHIN CORPORATI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

W.P.(C) No.23962 of 2007C

Dated, this the 12th day of November, 2007

JUDGMENT

The prayer in this Writ Petition is to issue a writ of mandamus to the respondents not to interfere with the peaceful enjoyment and possession of the petitioner over 2.250 cents of land comprised in Sy.No.816/4 of Poonithura Village, Kanayannur Taluk, Ernakulam. Petitioner is the owner of 2.250 cents of property comprised in Sy.No.816/4 of Poonithura Village, Kanayannur Taluk. The land was situated on the northern side of the Sahodaran Ayyappan Road. According to the petitioner the second respondent published a notification under Section 4(1) of the Land Acquisition Act (for short 'the Act') in respect of the petitioner's property on 13.10.2004 and a detailed valuation statement was approved by the District Collector fixing the value of the property as Rs.6,86,073.96. But no Section 6(1) declaration was issued in time. It is alleged that respondents are trying to acquire the property bypassing the provisions of law.

2. The Special Tahsildar(Land Acquisition) has filed a counter affidavit contenting that based on a requisition received from the third respondent notification under section 4(1) of the Act was published on 13.10.2004. It was averred that due to a mistake on the part of the Surveyor an extent of 0.0091 hectares of land which was originally owned by the petitioner, was shown as Government land and under the impression that it was Government land no

declaration under Section 6(1) of the Act was issued along with other lands. It was also averred that subsequently the petitioner filed a representation and on verification the mistake was found out and by the time the statutory period for publication of declaration was over. Hence the land acquisition proceedings initiated could not be completed. The averment that possession of land was taken by the respondents was denied. It was averred that the respondents are trying to compensate the petitioner through amicable settlement.

3. Learned standing counsel appearing for the Cochin Corporation, on instructions, submits that the third respondent has made every effort to amicably settle the matter with the petitioner, but he is not amenable and as such the Corporation has decided to forward a fresh requisition in respect of the land belonging to the petitioner to the Land Acquisition Officer. It is admitted by both sides that the land acquisition proceedings already initiated has elapsed. In view of the averment made by the second respondent that the petitioner's land was not taken possession, no further orders are necessary in this Writ Petition. The Writ Petition is only to be closed.

In the result, the Writ Petition is closed without prejudice to the right of the respondents to acquire the land belonging to the petitioner under the provisions of Land Acquisition Act.

K. PADMANABHAN NAIR,
JUDGE.

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